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by

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on

**“Code of Conduct and Ethics for Members of Parliaments and Staff: Raising
Standards and Performance”**

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Introduction

It has been widely held that Parliament is a place where hopes, aspirations and frustrations of the people ought to be reflected and echoed. Therefore, representative character of the legislature is considered to be the defining quality of a democratic polity. Though the basic framework of democracy is provided in the Constitution, yet a framework is just one aspect; its spirit is the more important one. It is the duty of the elected representatives of the people to deepen the spirit of democracy through their work and conduct.

2. Since Parliament is the central institution in a democracy, the personal conduct and credibility of the elected representatives can alone keep the public trust in parliamentary institutions undiminished, making the interface between people and their representatives lively and animated, thus strengthening the very foundation of democracy. This is true of all democracies and particularly so in a country like India with a billion plus population where the public opinion about the polity is shaped by the conduct and performance of public representatives both inside and outside the legislature.

3. It is instructive to recall the sagacious words of Dr. B.R. Ambedkar, the chief architect of the Indian Constitution: “However good a Constitution may be, it is sure to turn out bad if those who are called upon to work it, happen to be a bad lot.” In other words, institutions are what its incumbents make of them. Thus, the quality, performance and conduct of Members are of seminal importance to make a parliamentary institution function effectively, while maintaining the public trust. To this end, framing a Code of Conduct for Members of Parliament goes a long way in guiding the conduct of legislators to ensure that they discharge their functions effectively and in so doing they do not bring disrepute to the Parliament, affecting their own credibility as also the credibility of the institution they belong to.

4. It is a common knowledge that Parliament performs the core functions of making legislations, articulating the concerns of the people and holding the Government to account. Given the enormous mandate, it is imperative that the Members of Parliament have qualified support staff to assist them perform these functions effectively. That is why there exists a separate well-organised secretarial set-up in every Parliament to provide such services to the Presiding Officers and the

Members. But non partisan and relevant support to legislators calls for not only a competent workforce but also high standards of integrity and ethical behavior from them. It is for this reason that in parliamentary systems, the secretarial staff are also governed by rules of discipline and proper conduct to ensure that they remain committed to the spirit of service and professionalism and also enhance the transparency and accountability in the system.

5. This paper seeks to highlight the institutional arrangement, the practices and procedures, the compliance mechanism and other related matters available in the Rajya Sabha to ensure that Members follow a set of ethical code of conduct not only in their parliamentary work but also in their public life. Further, this paper also includes a set of conduct rules as ordinarily available to the Civil Service, that govern the work and conduct of the officers and staff of Rajya Sabha Secretariat.

Need for Code of Conduct

6. A well-written code of conduct clarifies an institution's mission, values and principles, linking them with standards of professional conduct of its Members and employees. The code articulates the values the institution wishes to foster in its Members and, in so doing, defines the desired behaviour. That is why many democracies across the world have established written formal codes of behavioral standards in their legislatures. In India, we have a Code of Conduct not only in the legislature but also in other State institutions which include Ministers, Judiciary, Media, Civil Service, Political Parties and even the Private Corporate Houses. In nutshell, a code of conduct has been felt necessary in almost all institutions to maintain a standard of acceptable behavior.

I. Code of Conduct in Parliament

7. In view of the representative character of Parliament, the legislators become the fulcrum around which the democratic polity revolves. Truly, democracy thrives only when people repose their unflinching trust on their leaders, emulating them as their role models, yet making critical assessment of their leaders' work and conduct. Today, with the live streaming of parliamentary proceedings through dedicated parliamentary television channel 'Sansad TV' and simultaneous webcasts of the live streaming on Rajya Sabha and Lok Sabha websites besides YouTube, Facebook and Twitter interfaces, people get opportunity to make constant assessment of the performance and conduct of their representatives. India is home to the third largest internet users in the world and this number is likely to grow exponentially in years to come. With internet and social media usage particularly among the youth in the country constantly on the rise, it has further increased avenues of public assessment of legislators. Given this penetration of internet, whatever the Members of Parliament say or do spread fast, really very fast. Members of Parliament are constantly under public gaze. It would not be wrong to say that the people evaluate the performance of their representatives in the backdrop of the standards set out in the Code of Conduct of the legislature.

8. Parliament of India comprising two Houses – Council of States (Rajya Sabha) and House of People (Lok Sabha) is ever alive to the ethical imperatives of maintaining high standards of work and conduct of the Members of Parliament. To

this end, each House has its own set of rules and procedure and also institutional arrangements to ensure that Members of Parliament as the representatives of the people maintain high standards of behaviour in public life as also in the Parliament, thereby deepening the democratic ethos in the society and making them the torchbearer of the democratic polity. However, here we will only focus on the Code of Conduct and Ethics that are applicable to the Members of the Rajya Sabha and its Staff.

Evolution of the Code of Conduct in Parliament

9. The first step towards the formation of a code of conduct and general ethical principles to be followed by the Members of Parliament can be traced to a Resolution that was adopted at the Presiding Officers Conference held in New Delhi in October, 1996. The Resolution desired the legislatures to explore the possibility of constituting an Ethics Committee to keep an eye on the unethical conduct of the Members. Following the Resolution, the Rajya Sabha became the first among the two Houses to form an Ethics Committee on 4th March 1997. In fact, it has the distinction of being the first such Committee by any legislature in India which was formed to act as an internal self-regulatory mechanism for the Members of the Rajya Sabha and ensure value-based politics. Lok Sabha, in contrast, formed an *ad hoc* ethics panel in May 2000 which was later given a permanent standing committee status. Ethics committees in both Houses endeavour to uphold the standards of the Parliament by ensuring that the ethical core of the members are strong and their conduct remain above board.

Role of Committee on Ethics

10. The broad mandate of the Ethics Committee of the Rajya Sabha is to oversee the moral and ethical conduct of the Members and also to examine the cases referred to it regarding their unethical conduct. The Committee also works as a record keeper and oversees the declaration of assets and liabilities that all the Members have to declare every year. The Committee is also mandated to maintain a Register of Members' Interest.

Code of Conduct to be followed by the Members inside the House

11. Following the suggestion of the Committee, contained in its First Report and adopted by it in December 1999, to prepare a framework of Code of Conduct for the Members of Rajya Sabha, a 14 point Code of Conduct recommended by the Committee has been in force. The Code of Conduct, *inter alia*, requires the Members to work diligently to discharge their mandate for the common good of the public. They are also expected to act in a manner that holds them in high esteem *vis-à-vis* the Constitution, the Law, the Parliamentary Institutions and above all the general public. In case of a conflict between their personal interests and public trust, they are supposed to see that their private interests are subordinated to the duty of their public office. They are dissuaded to expect or accept any fee, remuneration or benefit or gift which may interfere with their honest and impartial discharge of official duties.

Code of Conduct to be followed by the Members outside the House

12. The Code lays equal emphasis on their conduct outside the Parliament. It says that Members must *inter alia* use public resources in such a manner that may lead to public good; they should not be disrespectful to any religion and work for the promotion of secular values and; they should not disclose any confidential information for personal interests.

Complaint and Inquiry Mechanism

13. The Committee of Ethics did not limit itself to outlining the Code of Conduct. It also stated that it would take action against any Member violating the Code. It provided that a Member or any person can make a complaint to it regarding alleged unethical behavior or breach of the Code of Conduct by a Member or alleged incorrect information of a Member's interest. Cases may also be referred to the Committee by the Chairman, Rajya Sabha or Members or taken up by the Committee *suo moto*.

14. If there is a *prima facie* case of breach of the Code of Conduct, the matter is taken up by the Committee for examination and report. In fact, if a complaint is found to be false or vexatious, or made not in good faith, the matter may also be taken up as an issue of breach of parliamentary privilege.

Recommendations of Sanctions and Implementation

15. If established that a Member is guilty of indulging in unethical behaviour or that there is other misconduct, or that the Member has contravened the Code/ Rules, the Committee on Ethics is empowered to recommend sanctions to enforce its mandate which may include censure, reprimand, suspension from the Council for a specific period or any other sanction determined by the Committee to be appropriate.

16. The sanctions recommended by the Committee can be enforced only after the Council has adopted the report of the Committee containing its recommendations. That is to say that the final implementing authority in such cases is the House itself.

Cases so far

17. Although the Committee on Ethics has a robust mandate to inquire into allegations of breach of Conduct by Members and recommend sanctions against a Member if found guilty, fortunately there have been few occasions to investigate such gross allegations. However, on two separate occasions the Committee did implicate two Members of Rajya Sabha for their gross misconduct which was derogatory to the dignity of the House and inconsistent with the Code of Conduct and recommended their expulsion from the House. These precedents have exemplified the relevance of Ethics Committee and guided its future course of action.

Rules to be observed by Members while Present in the House

18. Apart from the 14-point Code of Conduct, the members are also expected to observe certain established parliamentary customs, conventions and etiquette while the House is sitting and Members are participating in discussions. They are *inter alia* not supposed to indulge in any frivolity during a debate, cause disruptions and use words that are offensive and unparliamentary. They are also required to declare their personal or specific pecuniary interests if the concerned matter is under discussion in the House or its Committees. These norms of behavior have been codified in the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha), which is over and above the Code of Conduct framed by the Ethics Committee. In such cases where Members fail to adhere to these norms the Chair is

empowered under the rules to impose punishment in a case to case basis. The House, in extreme case of misconduct, may also expel a Member.

II. Code of Conduct for Parliamentary Staff

19. In parliamentary systems, the secretarial staff are also governed by rules of discipline and conduct. The employees of the Rajya Sabha Secretariat too are expected to maintain and demonstrate at all times, highest order of discipline, conduct, competence and performance befitting the stature of employees of Rajya Sabha, the Second Chamber of Indian Parliament. Cases of misconduct on the part of employees of the Secretariat are duly dealt with in accordance with the applicable rules and instructions under the Rajya Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1957 which regulates the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Rajya Sabha. Since these Rules are limited in scope, the Central Civil Services (Conduct) Rules, 1964 and the Central Civil Services (Control, Classification and Appeal) Rules, 1965 which govern the officers and employees of the Union Government have also been made applicable to the employees of the Secretariat.

20. The Chairman, Rajya Sabha, (in case of gazetted officials) and the Secretary-General, Rajya Sabha, (in case of non-gazetted officials) are disciplinary authorities who may institute disciplinary proceedings and impose penalties on erring officials. While minor penalties may range from censure; withholding of promotion, pay recovery, demotion, major penalties may *inter alia* include compulsory retirement, removal or dismissal from service.

Procedure in disciplinary cases

21. The breach of the code of conduct and discipline or any errant behaviour by an official of the Secretariat is reported to Vigilance Section of the Secretariat. After examination, if it is found that the matter is not serious enough, a written warning, admonition or reprimand can be issued. The complaints received from outside the Secretariat are also examined by the Vigilance Section and suitable action is initiated.

III. Conclusion

22. To sum up, the Code of Conduct for the Members of the Rajya Sabha and the conduct rules for the parliamentary staff are a means to achieve an effectively functioning legislature which is able to discharge the assigned responsibilities in

public interest. It calls upon the Members and the parliamentary staff to behave in the most disciplined and decorous manner and exemplify conducts worthy of emulation.

23. Needless to mention, scrupulous adherence to the Code of Conduct and Ethics is fundamental to address the growing concern of trust-deficit that parliamentary institutions often face. Public perception of a legislature comprising disciplined Members with high standards of ethics helps enhance public trust besides ensuring better performance of their multifaceted roles. Disciplined Members invariably contribute to making legislature effective and functional through their participation in legislative debates, scrutiny of Government budget or ventilating public grievances – all within the scarcely available parliamentary time.